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SENSITIVE  
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DEPT FOR INL, NEA/I  
JUSTICE PASS TO JOHN EULER, ANDREW NORMAN

E.O. 12958: N/A

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SUBJECT: JOINT COORDINATION COMMITTEE CONVENES TO ADDRESS IRAQ  
JUDICIAL FEDERALISM

¶1. SUMMARY: The President of the Iraq Higher Judicial Council (HJC), Chief Judge Medhat al-Mahmoud, and the President of the Kurdistan Judicial Council (KJC), Chief Judge Ahmad Zobair, along with representatives of their respective judiciaries, met on April 28 to discuss issues of judicial federalism, administrative control over courts in the disputed territories, exchange of documents, transfer of detainees and investigative files, implementation of judicial orders, reciprocal recognition of counsel representation, and the status of judges in the Kurdistan Region of Iraq. This represented the first meeting of a newly formed HJC-KJC Joint Coordination Committee. END SUMMARY.

#### BACKGROUND

¶2. Under the powers assigned to it by the Iraqi Constitution, the Kurdistan Regional Government (KRG) formed an independent judiciary through the Judicial Powers Act of 2007, which separated the judiciary from the regional Ministry of Justice. The KJC now operates with administrative and financial independence from the KRG executive. It is responsible for administering the courts and for appointing, transferring, and disciplining judges in the Kurdistan Region of Iraq, as the HJC does for the rest of the country. A flurry of recent legislation proposed in the Iraqi Kurdistan Parliament, formerly called the Kurdistan National Assembly, raises concerns of potential conflict of laws and discrepancy in procedures between the regional and national justice systems. An April conference on judicial federalism, sponsored by the U.S. Institute of Peace (USIP) and attended by HJC and KJC leadership, exposed the need to clarify various areas of constitutional, federal, and regional law.

¶3. In response to the recommendations made at the USIP conference, Chief Judge Medhat, President of the HJC, and Chief Judge Ahmad Zobair, President of the KJC, agreed to establish a Joint Committee between the HJC and KJC. Its purpose was to address possible inconsistencies and ambiguities in the national and regional law and procedures relating to the judiciaries. The Committee was formally established by a judicial order dated March 31 and entered by Chief Judge Medhat. Judge Sami Hussein al-Ma'mouri, a Federal Cassation Court Judge, was selected to chair the Committee. On May 13, he addressed the Rule of Law Community Forum hosted by the Embassy and discussed the Committee and the recommendations contained within its report.

#### JUDICIAL FEDERALISM

¶4. According to Judge Sami, the Committee agreed to meet regularly, serve as a vehicle to resolve issues that may arise in the application of the laws, and clarify and increase awareness of federal and regional judicial authorities. Judge Sami said that the Committee will draft legal texts to deal with conflict of law issues and will discuss the establishment of a federal court in the region. Each side agreed not to object to the implementation of laws relating to jurisdictional matters.

¶5. The Committee approached the sensitive issue of administrative control over the Kufree Courts, which before April 9, 2003 fell under the national judiciary and now are under the administrative control of the KJC. However, it deferred discussion of the issue until higher judicial authorities could be consulted. The recommendations of the Committee will be reviewed by the judicial councils' leadership and Committee representatives hope to meet again in June.

#### RECIPROCITY AGREEMENTS

¶6. Each side also agreed to implement the pleas and civil judgments of the courts of the other council. Any court of one side may request that a court of the other "conduct any judicial procedure on its behalf, such as notifications, listening to the witness, taking the oath, or inspection." To facilitate the implementation of subpoenas and arrest warrants, the Committee proposed that judicial coordination offices be created in the offices of each judicial council presidency. Official mail, warrants, and case files may be exchanged through these offices. The Committee recommended inviting Ministry of Interior and Ministry of Justice representatives to discuss the appropriate mechanisms for transfer of detainees and investigative files, as well as Iraqi bar representatives to discuss reciprocity in recognition of attorney licensing at the regional and national levels.

¶7. The Committee resolved to discuss ways to strengthen the operations of the KJC, establish parity in treatment of judges, and otherwise standardize practices. Specifically, representatives will discuss the salaries of the KJC judges, the benefits they receive,

BAGHDAD 00001414 002 OF 002

and implementation of regional regulations to produce statistics to share with the federal government.

¶8. COMMENT: Formation of the Committee is a very positive development in the HJC-KJC relationship. It has the potential to draw attention to issues requiring coordination, provides a forum for the discussion and resolution of any future points of contention, and may generate much-needed legislation, regulations, and/or constitutional amendments that would further clarify the relationship between the HJC and KJC.

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